

#### **REMARKS**

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Claims 1-36 are pending in the application, with claims 1, 10, 19 and 28 being independent. Claims 1, 4, 5, 10 – 19, 23, and 28-36 are amended herein. Support for the claim amendments and additions can be found in the original disclosure. No new matter has been added.

#### **§ 101 REJECTIONS**

Claims 10-18 and 28-36 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant has amended claims 10 and 28 as proposed in the interview to recite a “computer-readable memory storage device.” Applicants submit amended claims 10-18 and 28-36 recite statutory subject matter and overcome the rejection. Therefore it is respectfully submitted that the present rejection under 35 U.S.C. §101 should be reconsidered and withdrawn.

#### **§ 102 REJECTIONS**

Claims 1-5, 7-14, 16-23, 25-32 and 34-36 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. U.S. Patent Application Publication 2003/0002579 to Radha et al. (“Radha”). Applicant respectfully traverses the rejection.

Nevertheless, without conceding the propriety of the rejection and in the interest of expediting allowance of the application, claims 1, 10, 19 and 28 have been amended as proposed during the interview and are believed to be allowable.

The relevant portions of **Independent claim 1**, as presently presented, recites:

1. A method comprising:  
decoding an enhancement layer bitstream without decoding an encoded base layer bitstream from a bitstream of encoded video data, the encoded video data including an encoded base layer and one or more encoded enhancement layers, the video data having been encoded according to a high HQRB (high quality reference bit-rate);...

The relevant portions of **Independent claim 10**, as presently presented, recites:

10. A computer-readable memory storage device encoded with computer-executable instructions that when executed by a processor implement operations comprising:  
(a) decoding an enhancement layer bitstream without decoding an encoded base layer bitstream from a bitstream of encoded video data, the encoded video data including an encoded base layer and one or more encoded enhancement layers, the video data having been encoded according to a high HQRB (high quality reference bit-rate);...

The relevant portions of **Independent claim 19**, as presently presented, recites:

19. A computing device comprising a processor coupled to a memory, the memory being encoded with computer-program instructions executable by the processor to implement operations comprise:  
decoding an enhancement layer bitstream from a bitstream of encoded video data, the encoded video data including an encoded base layer and one or more enhancement layers, the video data having been encoded according to a high HQRB (high quality reference bit-rate);...

The relevant portions of **Independent claim 28**, as presently presented, recites:

28. A computer-readable memory storage device comprising processing means in a computer-readable storage medium, the processing means comprising:  
means for decoding an enhancement layer bitstream from encoded video data without decoding an encoded base layer bitstream from the encoded video data, the encoded video data having an encoded base layer and one or more encoded enhancement layers, the video data having been encoded according to a high HQRB (high quality reference bit-rate);...

Radha is directed to creating a bitstream from video data and discloses a base layer and an enhancement layer. Although the bitrate of the enhancement layer is in part determined by a network bandwidth; the enhancement layer is coded from the original data (including a decoded base layer). However, as discussed in the October 21, 2008 interview, Radha fails to disclose or suggest “decoding an enhancement layer bitstream without decoding an encoded base layer bitstream from a bitstream of encoded video data, the encoded video data including an encoded base layer and one or more encoded enhancement layers,” as presently recited in independent claims 1, 10, 19 and 28.

Accordingly in view of the submitted remarks, Applicant respectfully submits that amended claims 1, 10, 19 and 28 are patentable over the Radha reference.

**Dependent claims 2-5, 7-9; 11-18; 20-27; and 29-36** depend from independent claims 1, 10, 19 and 28 and are patentable over the Radha reference by virtue of this dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim.

Therefore, for at least the reasons set forth above, it is respectfully submitted that the present rejection under 35 U.S.C. §102(e) should be reconsidered and withdrawn.

#### **§ 103 REJECTIONS**

**Dependent** Claims 6, 15, 24 and 33 stand rejected under 35 U.S.C. § 103(a) as being obvious over Radha in view of U.S. Patent No. 5742343 to Haskell et al. (Haskell). Applicant respectfully traverses the rejection.

**Dependent claims 6, 15, 24 and 33** depend from independent claim 1, 10, 19 and 28, and are patentable over the proposed combination of references by virtue of this

dependency, as well as for additional features that they recite. Applicant also respectfully requests individual consideration of each dependent claim.

Therefore, for at least the reasons set forth above, it is respectfully submitted that the present rejection under 35 U.S.C. §103(a) should be reconsidered and withdrawn.

CONCLUSION

For at least the foregoing reasons, claims 1-36 are in condition for allowance. Applicant respectfully requests reconsideration and withdrawal of the rejections and an early notice of allowance.

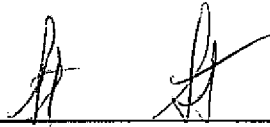
If any issue remains unresolved that would prevent allowance of this case, Applicant requests that the Examiner contacts the undersigned attorney to resolve the issue.

Respectfully Submitted,

Lee & Hayes, PLLC

Dated: 10/31/08

By: \_\_\_\_\_

  
Steven C. Stewart  
Reg. No. 33555  
206-315-7909